

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA *et al.*, *ex rel.*  
DAVID KESTER,

Plaintiffs,

v.

NOVARTIS PHARMACEUTICALS  
CORPORATION *et al.*,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 4/30/15

11 Civ. 8196 (CM) (JCF)

~~PROPOSED~~ ORDER

WHEREAS, on April 19, 2013, plaintiff the United States (the "Government") filed a notice of partial intervention and a complaint-in-intervention in this action with respect to the *qui tam* relator's allegations concerning kickback schemes involving the drug Myfortic;

WHEREAS, on October 30, 2013, the Government filed a notice of partial intervention and partial declination to (i) to intervene on the relator's claims against Novartis Pharmaceuticals Corp. ("Novartis") based on allegations concerning a kickback scheme involving Novartis and co-defendant BioScrip, Inc. ("BioScrip") in relation to the Novartis drug Exjade, and (ii) to decline to intervene on the relator's claims against Novartis based on kickback allegations concerning three drugs other than Exjade and Myfortic;

WHEREAS, on January 6, 2014, the Government filed a notice of partial intervention and partial declination (i) to intervene on the relator's claims against BioScrip based on allegations of a kickback scheme involving Novartis and BioScrip in relation to Exjade, and (ii) to decline to intervene against the other defendants named by the relator, including co-defendants Accredo Health Group, Inc. ("Accredo"), Curascript, Inc., CVS Caremark Corp.;

WHEREAS, on January 8, 2014, the Court entered an Unsealing Order to unseal this action and also providing, *inter alia*, that, "for good cause," the Government "is entitled to

intervene in [any] part of the action [as to which it has declined to intervene] at any time,”  
Unsealing Order at ¶ 8 [Dkt. 44];

WHEREAS, on April 17, 2015, the Government submitted a letter to notify the Court that the Government, the States, and the relator had reached a proposed settlement that would resolve all claims asserted against Accredo in this action;<sup>1</sup>

WHEREAS, on April 28, 2015, the Government submitted a letter-motion and a notice requesting leave to further intervene in part, stating (i) that the Government had concluded that “good cause” exists to further intervene against Accredo and (ii) that Accredo consents to such intervention; and

WHEREAS, on April 28, 2015, the Government also submitted a fully-executed proposed stipulation of settlement and dismissal among the Government, the relator, and Accredo fully resolving all claims against Accredo and CuraScript in this action;

IT IS HEREBY ORDERED, that the Government’s request for leave to further intervene in part as to Accredo is granted.

Dated: New York, New York  
April 29, 2015

SO ORDERED:

  
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HONORABLE COLLEEN MCMAHON  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> This letter was filed under seal on a temporary basis to allow plaintiffs and Accredo to finalize their proposed settlement. It will be unsealed concurrently with the entry of the stipulation of settlement and dismissal among the Government, the relator, and Accredo.